

Dennis J. Duffin
Director

The Commonwealth of Massachusetts

Office of Campaign & Political Finance

One Ashburton Place, Boston 02108

727-8352

March 22, 1988

AO-88-06

Marianne Donahue
765 Bridge Road
Northampton, MA 01060

Dear Ms. Donahue:

This letter is in response to your recent request for an advisory opinion concerning your campaign for the office of Hampshire County Register of Deeds.

You are presently Chief Executive Assistant to the Northwestern District Attorney, W. Michael Ryan. You have established a committee to conduct contribution solicitations and fundraising efforts on your behalf and will be taking an unpaid leave of absence from your present position as of June 6, 1988 until the election. You have requested the advice of this office concerning these matters in light of the prohibitions against public employees directly or indirectly soliciting contributions or any thing of value for political purposes, as contained in section 13 of M.G.L. c.55.

Section 13 of M.G.L. c.55 states, in pertinent part,

"No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees."

While you are employed as Chief Executive Assistant you may not directly or indirectly solicit or receive anything of value for any political purpose including your own candidacy for public office.

The law recognizes that public employees may run for public office, and have funds raised for that purpose by providing that "the soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth or any county, city or town, shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person." A political committee organized on your behalf may raise funds for the purpose of financing your candidacy for public office. Agents of the committee, other than appointed public employees, may solicit and receive contributions for your campaign. However, any person or political committee who is soliciting or receiving funds on behalf of a public employee

candidate may not do so from "any person or combination or persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility."


The use of your name in the letterhead of a solicitation letter, appearing as "The Committee to Elect Marianne Donahue," or in a similar fashion, is not a solicitation by you but by your political committee. The use of your name in the letterhead in that fashion is not prohibited. Furthermore, your committee would not be prohibited from mentioning your name in the letter, provided it is not used in any way which would suggest a solicitation by you. Please be aware, however, that a solicitation by you for contributions at the April 8, 1988 fundraiser would be prohibited under section 13 of M.G.L. c.55.

Lastly, it is the opinion of this office that, despite your unpaid leave of absence starting June 6, 1988, you will continue to be considered "employed for compensation" under section 13 of M.G.L. c.55. This office has maintained a policy that an unpaid leave of absence of less than four months is not sufficient to rebut the presumption of employment for the purposes of that section.

This opinion has been rendered solely on the basis of representations only made by you, and deals with the application of M.G.L. c.55 to your activities. There may be other statutes, such as M.G.L. c.268, §9A, or personnel rules or policies, about which you should inquire to the appropriate agencies.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,



Dennis J. Duffin
Director

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